

United States Department of Agriculture

FOOD, DRUG, AND INSECTICIDE ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

16326-16350

[Approved by the Secretary of Agriculture, Washington, D. C., October 2, 1929]

16326. Misbranding of tomato catsup. U. S. v. 47 Cases of Tomato Catsup. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 23539. I. S. No. 05430. S. No. 1785.)

On March 21, 1929, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 47 cases of tomato catsup, remaining in the original and unbroken packages at Hamilton, Ohio, alleging that the article had been shipped by the Lippincott Co. from Boonville, Ind., October 30, 1928, and transported from the State of Indiana into the State of Ohio and charging misbranding in violation of the food and drugs act. The article was labeled in part: (Bottles or jugs) "Fort Hamilton Brand * * * Tomato Catsup Guaranteed Free from Artificial Color."

It was alleged in the libel that the article was misbranded in that the designation "Tomato Catsup" and the statement "Guaranteed Free from Artificial Color," borne on the label, were false and misleading and deceived and misled the purchasers thereof.

On March 25, 1929, the Lippincott Co., Cincinnati, Ohio, having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of cost and the execution of a bond in the sum of \$400, conditioned in part that it be relabeled under the supervision of this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16327. Adulteration and misbranding of feed. U. S. v. Southern Milling Co. Plea of guilty. Fine, \$50. (F. & D. No. 22571. I. S. Nos. 14680-x, 14681-x, 16120-x.)

On October 17, 1928, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Southern Milling Co., a corporation, Augusta, Ga., alleging shipment by said company, in violation of the food and drugs act, on or about October 25, 1927, from the State of Georgia into the State of South Carolina, and on or about November 21, 1927, from the State of Georgia into the State of North Carolina, of quantities of feed which was adulterated and misbranded. The article was labeled in part, variously: (Tags) "Huron (or "Rexall" or "Bronco") Horse & Mule Feed * * * Manufactured by Southern Milling Co., Augusta, Ga. Guaranteed Analysis Protein 9% (or "10%") * * * Ingredients * * * Alfalfa Meal."

It was alleged in the information that the article was adulterated in that a substance containing no alfalfa meal, with respect to a portion of the product, had but a mere trace of alfalfa meal, with respect to the remainder thereof,

and which was deficient in protein in that it contained less than the declared amount of protein, had been substituted for an article containing alfalfa meal, and containing 9 per cent or 10 per cent, as the case might be, of protein, which the said article purported to be.

Misbranding was alleged for the reason that the statements, to wit, "Guaranteed Analysis: Protein 9%," "Guaranteed Analysis Protein 10%," and "Ingredients * * * Alfalfa Meal," borne on the labels of the respective lots, were false and misleading in that the said statements represented that the article contained the declared amount of protein and contained a substantial amount of alfalfa meal, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained the declared amount of protein and contained a substantial amount of alfalfa meal, whereas the said article contained less protein than the declared 9 per cent or 10 per cent, as the case might be, and contained in a portion thereof no alfalfa meal, and in the remainder thereof but a mere trace of alfalfa meal.

On March 18, 1929, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16328. Adulteration of shell eggs. U. S. v. 8 Cases, et al., of Shell Eggs. Decrees of condemnation entered. Product released under bond. (F. & D. Nos. 22934, 22959. I. S. Nos. 0817, 0818, 0820. S. Nos. 1013, 1031.)

On July 31 and August 4, 1928, respectively, the United States attorney for the Northern District of Alabama, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 23 cases of shell eggs at Birmingham, Ala., alleging that the article had been shipped by the H. E. Noel Produce Co., in part from Baldwyn, Miss., and in part from Corinth, Miss., in two consignments, on July 25, 1928, and July 28, 1928, respectively, and transported from the State of Mississippi into the State of Alabama, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "From H. E. Noel Produce Company Baldwyn (and "Corinth") Mississippi."

It was alleged in the libels that the article was adulterated in that it consisted wholly or in part of a filthy and decomposed animal substance.

On October 11, 1928, the H. E. Noel Produce Co., Baldwyn, Miss., having appeared as claimant for the property and having admitted the allegations of the libels, judgments of condemnation were entered, and it was ordered by the court that the product be released to the said claimant upon payment of costs and the execution of bonds totaling \$600. It was further ordered by the court that the eggs be recandled and inspected by a representative of this department and sold only after such inspection and approval by this department.

ARTHUR M. HYDE, *Secretary of Agriculture.*

16329. Misbranding of tomato puree. U. S. v. 12 Cases of Tomato Puree. Default decree of condemnation and forfeiture. Product delivered to charitable institution. (F. & D. No. 23450. I. S. No. 02672. S. No. 1659.)

On February 21, 1929, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 12 cases of tomato puree, remaining in the original unbroken packages at Rochester, N. Y., alleging that the article had been shipped by the Phillips Sales Co., Laurel, Del., October 25, 1928, and transported from the State of Delaware into the State of New York, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Tomato Puree Packed by the Davis Canning Company, Laurel, Delaware; made from whole tomatoes and tomato trimmings; contents 6 lbs., 10 ozs., U. S. Government Pure Food Act Requirements Guaranteed."

It was alleged in the libel that the article was misbranded in that the statements, "Contents 6 lbs., 10 ozs." and "U. S. Government Pure Food Act Requirements Guaranteed," were false and misleading and deceived and misled the purchaser, and in that the article was in package form and the quantity of tomatoes was not plainly and conspicuously marked on the outside of the package, since the statement made was not correct.

On May 13, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be delivered to a charitable institution.

ARTHUR M. HYDE, *Secretary of Agriculture.*